

# **Exhibit 4**

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT

Hampden Division

Case #03-1085

C. DAVID TRADER and )  
JEAN M. TRADER, JOSEPH B. )  
MITCHELL and TERESA K. )  
MITCHELL, DONALD GOVE, )  
MARK D. SIEBERT, BRIAN )  
BURKE, MICHAEL BRETON, )  
BRADFORD MOIR and MARY )  
MOIR, Plaintiffs )

v. )

ROBERT W. GOLLEDGE, JR., )  
Commissioner Executive Office )  
Of Environmental Affairs, and )  
EXECUTIVE OFFICE OF )  
ENVIRONMENTAL AFFAIRS, )  
DEPARTMENT OF ENVIRON- )  
MENTAL PROTECTION, )  
Defendants )

and )

KONOVER DEVELOPMENT )  
CORPORATION and HOME )  
DEPOT U.S.A., INC., )  
Intervenor Defendants )

NOTICE OF WITHDRAWAL OF APPEAL  
AS TO JOSEPH B. MITCHELL, TERESA K.  
MITCHELL, MARK SIEBERT AND  
BRIAN BURKE


Now come the Plaintiffs, Joseph B. Mitchell, Teresa K. Mitchell, Mark Siebert and Brian Burke and withdraw the appeal filed in their behalf in the above captioned action.

On or about March 25, 2004, Joseph B. Mitchell and Teresa K. Mitchell advised in writing that they no longer desired to pursue the matter, expressing concern over the ongoing litigation, the threat of retaliation within ongoing negative press coverage and were advised that their names would continue on the caption of the case as originally filed, which they acknowledged.

Mark Siebert advised in writing, on or about July 27, 2004 that he was no longer desirous of pursuing the matter, again expressing concern over threatened legal retaliation, and he acknowledged that his name would continue to appear in the caption of the case. At some time in early August of 2004, Brian Burke indirectly orally advised (Counsel was advised by another

of the Plaintiffs of Mr. Burke's request) that he no longer desired to pursue the appeal due to, among other reasons, the ongoing threat of retaliatory litigation.

The Plaintiff  
by its Attorney,

  
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William J. Pudlo  
P.O. Box 676  
West Springfield, Mass. 01090  
Telephone: (413) 739-4000  
FAX: (413) 739-3620

**Certificate of Service**

I, William J. Pudlo, hereby certify that I have served a copy of the above pleading by delivering a copy of the same, in hand, to Counsel for the respective parties.

Dated: September 14, 2004

  
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William J. Pudlo